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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

CASE NO. **'16CV2115 LAB DHB**

CORONADO DISTRIBUTION
COMPANY, INC., a California
corporation,

Plaintiff,

vs.

DIVINE IMAGING, INC., STEPHEN
JEWETT, and DOES 1 through 20,

Defendants.

**PLAINTIFF CORONADO DISTRIBUTION
COMPANY, INC.'S COMPLAINT FOR:**

1. COPYRIGHT INFRINGEMENT;
2. VICARIOUS COPYRIGHT INFRINGEMENT;
3. CONTRIBUTORY COPYRIGHT
INFRINGEMENT;
4. MISAPPROPRIATION OF TRADE SECRETS
UNDER 18 U.S.C. 1831;
5. MISAPPROPRIATION OF TRADE SECRETS;
UNDER CALIFORNIA CIVIL CODE §3426 Et.
Seq.; and
6. PRELIMINARY AND PERMANENT
INJUNCTIVE RELIEF

JURY TRIAL DEMANDED

Plaintiff Coronado Distribution Company, Inc. (hereafter, "CDC" or "Plaintiff") alleges as follows:

JURISDICTION AND VENUE

1. This is a civil action seeking monetary damages and injunctive relief for copyright infringement under the Copyright Act of the United States, 17 U.S.C. §101 et. seq. and for misappropriation of trade secrets under the Defend Trade Secrets Act of 2016, 18 U.S.C. 1881 et.

1 seq. and under the California Uniform Trade Secrets Act, California Civil Code section 3426 et.
2 seq.

3 2. This court has subject matter jurisdiction over plaintiff's copyright infringement
4 action pursuant to 28 U.S.C. §§ 1331 and 1338(a). This Court has supplemental jurisdiction over
5 this action for all other claims asserted herein pursuant to 28 U.S.C. § 1367.

6 3. This court has personal jurisdiction over defendants Divine and Jewett because
7 said defendants are doing business in this judicial district, because the acts of infringement and
8 other injuries complained of herein occurred in this judicial district, and because, on information
9 and belief, defendant Jewett resides in this district.

10 4. Venue is proper in this judicial district under 28 U.S.C. 1391(b)(1) and (b)(2)
11 because the acts of infringement and other injuries complained of herein occurred in this judicial
12 district, and because, on information and belief, defendant Jewett resides in this district, and all
13 defendants are residents of the State of California.

14 THE PARTIES

15 5. Plaintiff is a corporation duly organized and existing under the laws of the State of
16 California, with its principal place of business in San Diego, California.

17 6. Plaintiff is informed and believes, and thereon alleges, that defendant Divine
18 Imaging Inc., (hereafter, "Divine") is a corporation duly organized and existing under the laws of
19 the State of California, with its principal place of business in Malibu, California.

20 7. Plaintiff is informed and believes, and thereon alleges, that defendant Stephen
21 Jewett (hereafter, "Jewett") is an individual residing and domiciled in the city of San Diego,
22 California.

23 8. Plaintiff is unaware of the true identities and capacities of defendants sued herein
24 as Does 1 through 20, and therefore sues said defendants by such fictitious names. Plaintiff is
25 informed and believes, and thereon alleges, that each of these fictitiously named defendants is in
26 some way liable to plaintiff on the causes of action stated below. Plaintiff will ask for leave to
27 amend this complaint to state their true names and capacities when they have been ascertained.
28

1 9. Plaintiff is informed and believes, and thereon alleges, 1) that at all material times
2 herein, each defendant was acting as the authorized agent and employee of the other defendants;
3 2) that in doing the things alleged in this complaint each defendant was acting within the course
4 and scope of that agency and employment; 3) that each defendant, when acting as a principal, was
5 negligent in the selection and hiring of each other defendant as an agent and employee; and 4)
6 that each defendant, by his/her/its acts ratified the acts of the other defendants.

7 **FACTS COMMON TO ALL CAUSES OF ACTION**

8 10. CDC is a reseller/distributor that provides a variety of highly specialized goods
9 and services to all branches of the United States military and several U.S. government agencies,
10 including the Department of Energy, the Department of Homeland Security and the Federal
11 Bureau of Investigation. Founded in 2010 by a former Logistics Specialist in the United States
12 Navy with knowledge of U.S. Navy supply chain methods and procurement regulations, CDC has
13 spent years developing its product lines as an authorized distributor under various U.S.
14 Government contracting and procurement programs. CDC is presently an authorized distributor
15 under several United States government contracts that allow it to quickly fill orders for goods
16 placed by military personnel and government procurement officers anywhere in the world.

17 11. In late 2012, CDC made a substantial investment in the development, production
18 and publication of a product catalog to showcase a strategically selected group of products and
19 services that CDC wished to market to the United States Navy ("Navy") through authorized
20 personnel serving aboard Navy sailing vessels.

21 12. The 64 page catalog was designed as a tabloid style, full color brochure printed on
22 8.5 inch x 11 inch paper in landscape orientation. The catalog featured photographs of products
23 that CDC, through years of trial-and-error research, marketing and experience, determined were
24 of high value or high demand by crew members serving on ships docked at Naval Base San Diego
25 or other nearby facilities. CDC has since published updates of the catalog on an annual or near
26 annual basis. A true and correct copy of the 2016 CDC catalog is attached as Exhibit 1 to the
27 Notice of Lodgment filed herewith (hereafter, "the CDC Catalog").
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15. On March 24, 2016, Jewett resigned his position as sales representative with CDC. CDC is informed and believes, and thereon alleges, that shortly thereafter, Jewett accepted a position as a sales representative (or similar position) with Divine. Divine is a direct competitor of CDC.

17. Shortly thereafter, CDC learned that Divine had also published the Divine Catalog in digital form on Divine's commercial website.

(Against all Defendants for Copyright Infringement)

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Plaintiff Coronado Distribution Company, Inc.'s Complaint

1 19. CDC is the author of, and owns all rights and title to the copyright of, the CDC
2 product catalog, including all versions of the catalog published between 2012 and the present.

3 20. CDC filed applications for copyright registration with the United States Copyright
4 Office for the 2016 version of the CDC product catalog, and is awaiting issuance of the
5 registration certificates.

6 21. By publishing and distributing the Divine Catalog, defendants, without any
7 authorization, permission, consent or license, copied, reproduced and distributed substantial
8 constituent elements of the 2016 CDC product catalog that were original. In addition, the overall
9 format and content of the CDC Catalog and the Divine Catalog are not only substantially similar,
10 they are nearly identical.

11 22. Defendants' copying, reproduction and distribution occurred both 1) in printed
12 form, and 2) in digital form (as a subpage on Divine's commercial website). The copying,
13 reproduction, publication and distribution of the Divine Catalog by defendants infringes on
14 CDC's copyrights to the constituent elements of the CDC product catalog that are original, as
15 well as the overall CDC product catalog itself.

16 23. Defendants knew the Divine Catalog infringed on CDC's copyrights and they
17 knew they did not have permission to exploit CDC's work. Defendants' acts of infringement
18 were and are willful, intentional and purposeful, in disregard of and with indifference to CDC's
19 rights.

20 24. As a direct and proximate result of defendants' wrongful and infringing conduct
21 described herein, CDC has suffered and will continue to suffer injury and loss, and CDC is
22 entitled to recover damages from defendants in an amount to be proven at trial.

23 25. CDC is also entitled to recover defendants' profits attributable to the infringement
24 pursuant to 17 U.S.C. § 504, including an accounting of, and imposition of a constructive trust
25 for, such profits.

1 26. Alternatively, CDC is entitled to statutory damages pursuant to 17 U.S.C. §504(c).
2 Because defendants' infringement was willful, the award of statutory damages should be
3 enhanced in accordance with 17 U.S.C. § 504(c)(2).

4 27. CDC is entitled to recover its attorneys' fees and costs pursuant to 17 U.S.C. § 505
5 or as otherwise provided by law.

6 28. As a direct and proximate result of the defendants' wrongful acts and conduct
7 described herein, CDC has suffered and will continue to suffer substantial, immediate and
8 irreparable injury for which there is no adequate remedy at law. CDC is informed and believes,
9 and thereon alleges, that unless restrained and enjoined by this court, defendants will continue to
10 infringe on CDC's copyrights in the CDC product catalog. CDC is entitled to preliminary and
11 permanent injunctive relief to restrain and enjoin defendants' continuing infringing conduct.

12 **SECOND CAUSE OF ACTION**

13 (Against Divine and DOES 1 through 5, for Vicarious Copyright Infringement)

14 29. CDC re-alleges paragraphs 1 through 17 and 19 through 28 above, and
15 incorporates them herein by this reference, as though set forth in full.

16 30. Divine and DOES 1 through 5 have and had the right and ability to control the
17 infringing acts of Jewett (and possibly others) who themselves directly infringed on CDC's work,
18 as described above.

19 31. Divine and DOES 1 through 5 obtained a direct financial benefit from the
20 infringing activities of Jewett (and possibly others) who themselves directly infringed on CDC's
21 work, as described above.

22 **THIRD CAUSE OF ACTION**

23 (Against All Defendants, for Contributory Copyright Infringement)

24 32. CDC re-alleges paragraphs 1 through 17 and 19 through 28 above, and
25 incorporates them herein by this reference, as though set forth in full.

26 33. Defendants Divine and Jewett each had knowledge of the infringing activity of the
27 other, as described above. Defendants Divine and Jewett each induced, caused or materially
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1 contributed to the infringing conduct of the other by encouraging, inducing, allowing and/or
2 assisting the other to copy, reproduce and distribute CDC's work as described above.

3 **FOURTH CAUSE OF ACTION**

4 (Against all Defendants, for Misappropriation of Trade Secrets under 18 U.S.C.
§1833 et. seq.)

5 34. CDC re-alleges paragraphs 1 through 17 above, and incorporates them herein by
6 this reference, as though set forth in full.

7 35. At all relevant times herein, CDC was in possession of confidential business
8 information consisting of 1) the identity and contact information of the various manufacturers and
9 suppliers of the products that CDC offered for sale in the CDC Catalog; 2) the wholesale cost and
10 pricing information for those and other products offered by those manufacturers and suppliers;
11 and 3) mark-up and profit margin information for such products.

12 36. Said confidential business information derives independent economic value to
13 CDC from the fact that it is not generally known to the public or to other persons (such as Divine)
14 who can obtain economic value from the information's disclosure and use. Said confidential
15 business information is not easily or readily ascertainable by proper means and, without its
16 unauthorized disclosure, other persons (such as Divine) would have to expend both time and
17 money to find or develop said information on their own. Keeping said confidential business
18 information secret provides CDC with a competitive advantage over other persons (such as
19 Divine) who can obtain economic value from discovering and exploiting the information.

20 37. CDC treated the confidential business information as a secret. CDC took
21 reasonable precautions under the circumstances to protect the confidential business information
22 and to preserve its secrecy by, among other things, requiring all persons with access to the
23 information to acknowledge their obligation to treat such information confidentially and to agree
24 to preserve its secrecy.

25 38. Said confidential business information (hereafter, "CDC's trade secret
26 information") is a trade secret as defined by the Defend Trade Secrets Act of 2016, 18 U.S.C.
27 1839(3).
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1 39. Jewett gained access to plaintiff's trade secret information in the course and scope
2 of his employment by CDC and in the context of an employer-employee relationship between
3 CDC and Jewett. Jewett was under an obligation to maintain the secrecy of CDC's trade secret
4 information that he obtained during his employment, and to limit his use of said information to
5 the furtherance of CDC's business.

6 40. CDC is informed and believes, and thereon alleges, that Jewett has disclosed
7 CDC's trade secret information to Divine, and that Divine gained access to CDC's trade secret
8 information by accepting them from Jewett. CDC is informed and believes, and thereon alleges,
9 that Divine knew or had reason to know that Jewett acquired CDC's trade secret information by
10 improper means. CDC is informed and believes, and thereon alleges, that Divine and Jewett are
11 using, and/or intend to use, CDC's trade secret information in their efforts to source and price the
12 products offered in the Divine Catalog. Such use of CDC's trade secret information is
13 unauthorized and without CDC's consent or permission.

14 41. As a direct and proximate result of defendants' disclosure and use of CDC's trade
15 secret information, CDC has suffered and will continue to suffer injury and damage.

16 42. Defendants' actions in wrongfully disclosing, misappropriating and using CDC's
17 trade secret information were and continue to be willful and malicious, warranting an award of
18 exemplary damages and attorneys' pursuant to 18 U.S.C §§ 1836(3)(c) and 1836(3)(d).

19 43. As a direct and proximate result of the defendants' wrongful acts and conduct
20 described herein, CDC has suffered and will continue to suffer substantial, immediate and
21 irreparable injury for which it may be extremely difficult or impossible to quantify and for which
22 there is no adequate remedy at law. CDC is informed and believes, and thereon alleges, that
23 unless restrained and enjoined by this court, defendants will continue to disclose and use CDC's
24 trade secret information. CDC is entitled to preliminary and permanent injunctive relief to
25 restrain and enjoin defendants' continuing misappropriation of CDC's trade secret information.

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FIFTH CAUSE OF ACTION

(Against Defendants Divine and Jewett for Misappropriation of Trade Secrets;
Under Cal. Civ. Code §3426)

44. Plaintiff re-alleges paragraphs 1 through 17 and 35 through 43 above, and incorporates them herein by this reference, as though set forth in full.

45. CDC's trade secret information as described above is a trade secret as defined by California's Uniform Trade Secrets Act, Civil Code section 3426(1)(d).

46. CDC is entitled to recover monetary damages, restitution for unjust enrichment and/or reasonable royalties from defendants pursuant to Civil Code § 3426.3, according to proof at trial.

47. Defendants' actions in wrongfully disclosing, misappropriating and using CDC's trade secrets were and continue to be willful and malicious, warranting an award of exemplary damages and attorneys' fees under Civil Code §3426.3.

DEMAND FOR JURY TRIAL

48. Plaintiff hereby demands a trial by jury.

WHEREFORE, plaintiff prays for judgment as follows:

- (1) For damages in such amount as may be proven by plaintiff, or as otherwise allowed by law;
- (2) For an accounting of, and imposition of a constructive trust with respect to, defendants' profits attributable to their infringements of plaintiff's copyrights and/or their disclosure or use of plaintiff's trade secret information;
- (3) For preliminary and permanent injunctions prohibiting, enjoining and restraining defendants and their respective agents, employees and successors, from continuing to copy, reproduce or distribute plaintiff's original works, including the Divine Catalog, in either print or digital form, or otherwise infringe plaintiff's copyrights;

- 1 (4) For preliminary and permanent injunctions prohibiting, enjoining and
2 restraining defendants and their respective agents, employees and
3 successors, from disclosing or using plaintiff's trade secret information as
4 described herein;
5 (5) For prejudgment interest according to law;
6 (6) For recovery of plaintiff's reasonable attorneys' fees and cost of suit
7 incurred herein;
8 (7) For an order pursuant to 17 U.S.C. § 503 impounding all materials,
9 including physical copies and electronic files of the Divine catalog, that
10 have been made or used in violation of plaintiffs exclusive rights as
11 copyright owner.
12 (8) For such other and further relief that this court deems just and proper.

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14 DATED: August 19th, 2016

GEFFEN LAW & MEDIATION

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16 By: 

17 Marc A. Geffen
18 Attorney for plaintiff Coronado Distribution
19 Company, Inc.
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